

1 AN ACT in relation to criminal investigations.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Section 14-3 as follows:

6 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

7 Sec. 14-3. Exemptions. The following activities shall
8 be exempt from the provisions of this Article:

9 (a) Listening to radio, wireless and television
10 communications of any sort where the same are publicly made;

11 (b) Hearing conversation when heard by employees of any
12 common carrier by wire incidental to the normal course of
13 their employment in the operation, maintenance or repair of
14 the equipment of such common carrier by wire so long as no
15 information obtained thereby is used or divulged by the
16 hearer;

17 (c) Any broadcast by radio, television or otherwise
18 whether it be a broadcast or recorded for the purpose of
19 later broadcasts of any function where the public is in
20 attendance and the conversations are overheard incidental to
21 the main purpose for which such broadcasts are then being
22 made;

23 (d) Recording or listening with the aid of any device to
24 any emergency communication made in the normal course of
25 operations by any federal, state or local law enforcement
26 agency or institutions dealing in emergency services,
27 including, but not limited to, hospitals, clinics, ambulance
28 services, fire fighting agencies, any public utility,
29 emergency repair facility, civilian defense establishment or
30 military installation;

31 (e) Recording the proceedings of any meeting required to

1 be open by the Open Meetings Act, as amended;

2 (f) Recording or listening with the aid of any device to
3 incoming telephone calls of phone lines publicly listed or
4 advertised as consumer "hotlines" by manufacturers or
5 retailers of food and drug products. Such recordings must be
6 destroyed, erased or turned over to local law enforcement
7 authorities within 24 hours from the time of such recording
8 and shall not be otherwise disseminated. Failure on the part
9 of the individual or business operating any such recording or
10 listening device to comply with the requirements of this
11 subsection shall eliminate any civil or criminal immunity
12 conferred upon that individual or business by the operation
13 of this Section;

14 (g) With prior notification to the State's Attorney of
15 the county in which it is to occur, recording or listening
16 with the aid of any device to any conversation where a law
17 enforcement officer, or any person acting at the direction of
18 law enforcement, is a party to the conversation and has
19 consented to it being intercepted or recorded under
20 circumstances where the use of the device is necessary for
21 the protection of the law enforcement officer or any person
22 acting at the direction of law enforcement, in the course of
23 an investigation of a forcible felony, a felony violation of
24 the Illinois Controlled Substances Act, a felony violation of
25 the Cannabis Control Act, or any "streetgang related" or
26 "gang-related" felony as those terms are defined in the
27 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
28 recording or evidence derived as the result of this exemption
29 shall be inadmissible in any proceeding, criminal, civil or
30 administrative, except (i) where a party to the conversation
31 suffers great bodily injury or is killed during such
32 conversation, or (ii) when used as direct impeachment of a
33 witness concerning matters contained in the interception or
34 recording. The Director of the Department of State Police

1 shall issue regulations as are necessary concerning the use
2 of devices, retention of tape recordings, and reports
3 regarding their use;

4 (h) Recordings made simultaneously with a video
5 recording of an oral conversation between a peace officer,
6 who has identified his or her office, and a person stopped
7 for an investigation of an offense under the Illinois Vehicle
8 Code;

9 (h-5) Recordings made simultaneously with a video
10 recording of an oral conversation between a peace officer,
11 who has identified his or her office, and a person
12 interviewed as a suspect or witness in a case that may result
13 in a defendant being charged with a Class X felony as
14 provided in Section 108C-5 of the Code of Criminal Procedure
15 of 1963;

16 (i) Recording of a conversation made by or at the
17 request of a person, not a law enforcement officer or agent
18 of a law enforcement officer, who is a party to the
19 conversation, under reasonable suspicion that another party
20 to the conversation is committing, is about to commit, or has
21 committed a criminal offense against the person or a member
22 of his or her immediate household, and there is reason to
23 believe that evidence of the criminal offense may be obtained
24 by the recording; and

25 (j) The use of a telephone monitoring device by either
26 (1) a corporation or other business entity engaged in
27 marketing or opinion research or (2) a corporation or other
28 business entity engaged in telephone solicitation, as defined
29 in this subsection, to record or listen to oral telephone
30 solicitation conversations or marketing or opinion research
31 conversations by an employee of the corporation or other
32 business entity when:

33 (i) the monitoring is used for the purpose of
34 service quality control of marketing or opinion research

1 or telephone solicitation, the education or training of
2 employees or contractors engaged in marketing or opinion
3 research or telephone solicitation, or internal research
4 related to marketing or opinion research or telephone
5 solicitation; and

6 (ii) the monitoring is used with the consent of at
7 least one person who is an active party to the marketing
8 or opinion research conversation or telephone
9 solicitation conversation being monitored.

10 No communication or conversation or any part, portion, or
11 aspect of the communication or conversation made, acquired,
12 or obtained, directly or indirectly, under this exemption
13 (j), may be, directly or indirectly, furnished to any law
14 enforcement officer, agency, or official for any purpose or
15 used in any inquiry or investigation, or used, directly or
16 indirectly, in any administrative, judicial, or other
17 proceeding, or divulged to any third party.

18 When recording or listening authorized by this subsection
19 (j) on telephone lines used for marketing or opinion research
20 or telephone solicitation purposes results in recording or
21 listening to a conversation that does not relate to marketing
22 or opinion research or telephone solicitation; the person
23 recording or listening shall, immediately upon determining
24 that the conversation does not relate to marketing or opinion
25 research or telephone solicitation, terminate the recording
26 or listening and destroy any such recording as soon as is
27 practicable.

28 Business entities that use a telephone monitoring or
29 telephone recording system pursuant to this exemption (j)
30 shall provide current and prospective employees with notice
31 that the monitoring or recordings may occur during the course
32 of their employment. The notice shall include prominent
33 signage notification within the workplace.

34 Business entities that use a telephone monitoring or

1 telephone recording system pursuant to this exemption (j)
2 shall provide their employees or agents with access to
3 personal-only telephone lines which may be pay telephones,
4 that are not subject to telephone monitoring or telephone
5 recording.

6 For the purposes of this subsection (j), "telephone
7 solicitation" means a communication through the use of a
8 telephone by live operators:

- 9 (i) soliciting the sale of goods or services;
- 10 (ii) receiving orders for the sale of goods or
11 services;
- 12 (iii) assisting in the use of goods or services; or
- 13 (iv) engaging in the solicitation, administration,
14 or collection of bank or retail credit accounts.

15 For the purposes of this subsection (j), "marketing or
16 opinion research" means a marketing or opinion research
17 interview conducted by a live telephone interviewer engaged
18 by a corporation or other business entity whose principal
19 business is the design, conduct, and analysis of polls and
20 surveys measuring the opinions, attitudes, and responses of
21 respondents toward products and services, or social or
22 political issues, or both.

23 (Source: P.A. 91-357, eff. 7-29-99.)

24 Section 10. The Code of Criminal Procedure of 1963 is
25 amended by adding Article 108C as follows:

26 (725 ILCS 5/Art. 108C heading new)

27 ARTICLE 108C. VIDEOTAPING OF INTERVIEWS

28 (725 ILCS 5/108C-5 new)

29 Sec. 108C-5. Videotaping of interviews required. During
30 an investigation of a case that may result in a defendant
31 being charged with a Class X felony, every interview between

1 a peace officer and a suspect or witness in that case must be
2 videotaped. The videotaping must begin with the peace
3 officer's statement to the suspect or witness reciting all of
4 the suspect's or witness's constitutionally required
5 warnings, which must be followed by the suspect's or
6 witness's waiver of each of his or her constitutional rights
7 as specified in those warnings. The entire interview must be
8 videotaped.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.